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December 28, 2015

Amalia Neidhardt
Senior Safety Engineer
DOSH Research & Standard Health Unit
495-2424 Arden Way
Sacramento, CA 95825

cc: CalOSHA Chief Sum
Acting Deputy Chief of Research and Standards Berg, CalOSHA
Steve Smith, Co-chair, Hotel Housekeeping Advisory Committee, CalOSHA

Dear Ms. Neidhardt,

On behalf of UNITE HERE, I want to express our appreciation of CalOSHA's Hotel Housekeeping Advisory Committee's efforts in making progress towards promulgating a musculoskeletal injury prevention standard for hotel housekeepers in California. We thank CalOSHA and DIR leadership for moving this process forward to a pathway for rulemaking in 2016.

Needless to say, we cannot stress enough the importance of the testimony presented by hotel housekeepers at the five public Advisory Committee meetings from 2012-2015 along with scientific experts in support of a hotel housekeeper injury prevention standard. We submit our comments on the next pages whose credibility comes from the aforementioned testimony and the extensive supporting scientific literature. We also emphasize particular concerns below.

D. TAYLOR, PRESIDENT

GENERAL OFFICERS: Sherri Chiesa, Secretary-Treasurer • Peter Ward, Recording Secretary
Jo Marie Agriesti, General Vice President • Maria Elena Durazo, General Vice President for Immigration, Civil Rights and Diversity

We strongly encourage CalOSHA and DIR to meet the benchmarks in the timeline released by Steve Smith at the November 2015 Occupational Safety and Health Standards Board (OSHSB):

DOSH will finalize draft proposal and develop supporting regulatory package for internal DIR review.	4/1/2016
DIR will review and approve package including Form 399 before sending to the Board.	6/1/2016
Once DOSH gets DIR approval, then draft regulatory proposal is submitted to the Board.	6/1/2016

With the above timeline, UNITE HERE asks CalOSHA, the DIR and the OSHSB staff to advance expeditiously so that a public notice of rulemaking for the CalOSHA Hotel Housekeeper Musculoskeletal Injury Prevention Standard will be released no later than July 1st, 2016. It will be four years since UNITE HERE petitioned for a hotel housekeeper injury prevention standard. Sadly, hotel housekeepers continue to get injured in the meantime.

Therefore, we request that the December 2015 Advisory Committee meeting minutes are posted on the DOSH website by Jan. 14, 2016, giving the public time to review them before the Jan. 21, 2016 OSHSB meeting in Costa Mesa.

UNITE HERE cannot stress enough the importance of the CalOSHA 2005 publication, “Working Safer and Easier for Janitors, Custodians and Housekeepers” as part of the non-mandatory appendices to be included as part of the Worksite Evaluation and as part of Part D. Training. This is an excellent CalOSHA document that is vastly underused and can provide the technical guidance that is needed for a standard that unfortunately does not require specific tools.

Although tools such as mops, long-handled adjustable cleaning tools, fitted sheets, and light-weight or motorized carts are not included, we do believe the Agency needs to recognize the existence of these simple, common tools. Tools highlighted in CalOSHA publications and in two information memos issued in 2011 to hotel employers as possible solutions to housekeeper injuries.

Therefore, UNITE HERE strongly urges CalOSHA to provide greater clarity on the term ‘control measures’ in ‘Section (5) Procedures to investigate musculoskeletal injuries to housekeepers’, by including the following language: **control measures to be considered here (c)(5)(A) and in (c)(5)(B) and (c)(5)(C) include, but are not limited to: fitted bed sheets; mops; long-handled and adjustable length tools for dusting and scrubbing walls, showers, tubs, and other surfaces; and light-weight or motorized carts and those identified in the Cal/OSHA 2005 publication, *Working Safer and Easier for Janitors, Housekeepers and Custodians*.¹**

CalOSHA cannot be silent about which control measures are to be considered. It is almost 2016 and time for employers to consider the use of feasible, simple measures that are common and that are also specifically recommended for housekeepers in the DOSH publication.

We stress the necessity to keep the language as noted on the next pages about training supervisors and hotel housekeepers on the signs, symptoms and risk factors of musculoskeletal injuries. Education is necessary so that hazards can be controlled and injuries prevented.

We ask for ‘lifting’ to be separated from risk factors about postures and to it add ‘forceful exertion’ so that the amended risk factors for musculoskeletal will include ‘lifting and forceful exertion’ as a factors. UNITE HERE also asks for ‘excessive work-rate’ remain as a risk factors. Removal of either of these will seriously weaken the standard and jeopardize hotel housekeepers’ health as both are key hazards in hotel housekeeping work.

The use of the terms ‘union representative’ and ‘designated representative’ are appropriate as used and we do not support changes of their usage.

In light of concerns repeatedly expressed during the Advisory Committee process about the financial impact on the hotel industry of a proposed hotel housekeeper injury prevention standard, and most recently at the December 3, 2015 meeting regarding training costs and in September 2015 written comments that we find troubling, UNITE HERE includes as part of our

¹ *Working Safer and Easier for Janitors, Housekeepers and Custodians*, https://www.dir.ca.gov/dosh/dosh_publications/janitors.pdf (date last accessed 12/2/2015).

comments submitted today the testimony presented at the December 3, 2015 Advisory Committee meeting by UNITE HERE International Union researcher Mikela French on ‘The Health of the Hotel Industry – Its Financials.’

Please see our requested changes in bold, along with supporting comments on the following pages.

Thank you.

Sincerely,

Pamela Vossen

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UNITE HERE COMMENTS ON December 3 CalOSHA Revised Discussion Draft

Page 1.

(b) Definitions.

Lodging Establishment

At this point in time, we request that the definition of lodging establishments in the Dec 3rd revised discussion draft does not change (see below), per the requests of the hotel industry.

To clarify, we request that the definition below remains intact:

“Lodging establishment” means an establishment that contains sleeping room accommodations that are rented or otherwise provided to the public, such as hotels, motels, resorts, and bed and breakfast inns. For the purposes of this section, “lodging establishment” does not include hospitals, nursing homes, residential retirement communities, prisons, jails, homeless shelters, boarding schools, or worker housing.”

Worksite evaluation

As stated at the Dec 3rd Advisory Committee (AC) meeting, we prefer the use of the term ‘Worksite Evaluation’ as long as the Dec 3 definition remains intact:

“Worksite evaluation” means the identification and evaluation of workplace hazards in each housekeeping task, process, or operation of work with respect to potential causes of musculoskeletal injuries to housekeepers that is specific to each workplace.

In addition, given the hotel industry’s September 2015 submitted comments that the use of Job Hazard Analysis (JHA) would be costly, we think it is more prudent to use Worksite Evaluation instead.

Union Representative and Designated Representative

UNITE HERE considers the California Hotel & Lodging Association's propose to broaden the definition of "representative" in the proposed standard to include any type of "representative," and not only a "union representative" as defined in the definitional section, to be unworkable.

Under the draft standard, a “union representative” is permitted to engage in certain defined activities: specifically, involvement in the design and conduct of the worksite evaluation (section (c)(4)(B)); providing input whether a housekeeper’s injury could have been protected of any control measure, procedure, or tool (section (c)(5)(C)); involvement in identifying and evaluating possible corrective measures for hazards identified in the worksite evaluation (section (c)(6)(A)); and involvement in the review and update of the MIPP (section (c)(7).)

These kinds of involvements are appropriate for a union that the employer is legally required to recognize as collective bargaining representative of its employees. But the CH&LA’s proposal to expand representative to include other non-union representatives will pose problems for both

employers and the Division. Employers will not know when and under what circumstances it must involve such a “representative” in the activities laid out in the proposed standard. The Division be faced with complex enforcement problems as it tries to determine whether an employer had the obligation to involve a certain “representative” in the activities set out above and to what degree. In contrast, the draft standard in its current form merely requires the Division to determine whether there is a union at the worksite, a straightforward yes or no determination.

We note that the draft standard appropriately uses the broader term “designated representative” in Section (e)(2) providing for access to records (incorporating the definition from Section 3203). Recognizing a role for various types of “representatives” in this context does not pose the issues set out above but the term “designated representative” should remain.

Page 2.

Clause (c) (2)

We assert that clause (c) (2) “A system for ensuring that supervisors and housekeepers comply with the MIPP... for each housekeeping task” is a key component of the MIPP, that it must 1) remain in the final version and 2) that the language must remain intact as written in the Dec. 3rd revised discussion draft.

Amending Clause (c) (4) (A):

Change 3 months to **90 days** in two places in this clause which is consistent with other CalOSHA standards.

Amending Clause (c) (4) (C):

(C) Housekeepers shall be notified of the results of the job hazard analysis worksite evaluation **within 14 days of completion** in writing or by posting it in a location readily accessible to them. The results of the worksite evaluation shall be in a language easily understood by housekeepers **and shall be made available at all times.**

1. In order to hold employers accountable and to be able to enforce the notification language, language including a timeline of 14 days upon completion of the worksite evaluation must be included.

2. The results of the worksite evaluation must be available at all times which is the same language found in other CalOSHA standards, see two examples below:

Page 4: (c) Workplace Violence Prevention plan: “shall be made available to employees at all times”	Page 2: Safe Patient Handling plan: “shall be made available to all employees in each patient care unit at all times”
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Amending Clause (c) (4) (D):

(c) (4) (D) At the end of the first sentence, after “The worksite evaluation shall be reviewed and updated” add “**within 30 days of:**”

Page 3.

Amending Clause (c)(4)(E):

(c) (4) (E) “The worksite evaluation shall address, at a minimum, the potential injury risks to housekeepers including but not necessarily limited to:

As stated in our previous comments on the August 2015 revised discussion draft, and in person at the Dec 3, 2015 Advisory Committee meeting, Item ‘(4) torso bending, twisting, lifting, kneeling, and squatting’ is about postures; lifting does not belong there. Also, forceful exertion is missing.

Section (c)(4)(E) needs to be amended to state:

1. “The worksite evaluation shall address at a minimum, the potential injury risks to housekeepers including but not necessarily limited to: **(1) lifting and forceful exertions;** (2) prolonged or awkward static postures; (3) extreme reaches and repetitive reaches above shoulder height, (4) **torso bending, twisting, kneeling, and squatting;** (5) pushing and pulling; (6) slips, trips and falls; (7) excessive work-rate; (8) pressure points where a part of the body presses against an object or surface; (9) inadequate recovery time between tasks; (10) falling and striking objects.

2. In addition to amending (c) (4) (E) as stated above, we request that the above items remain intact, including (7) excessive work-rate.

Forceful exertion is a serious hazard for hotel housekeepers and is a regular part of the bed making task – having to lift the corner of a mattress that is too close to the wall or up against a night table – that results in forceful exertion. Often, there isn’t enough room to bend at the knees plus the mattress weighs so much and is so thick that it is too hard to sustain the lift, so you have to just get the sheet under the corner and drop it. Back pain contributes to making it difficult to sustain the lift also because many times the housekeeper does not have enough room to bend sufficiently at the knees. Other examples of forceful exertion is part of pushing the cart into the elevator when the floor of the hall and the elevator are not even, pushing on carpet or with poorly maintained wheels and moving furniture to vacuum. On Dec 3, 2015 hotel housekeepers gave testimony of their own experiences of forceful exertion as part of room cleaning tasks.

Without including forceful exertion, CalOSHA is failing to recognize one of the most serious hazards of hotel housekeeping work. Therefore we suggest again, to make lifting and forceful exertion its own separate category of potential injury risks as we did for in our comments on the August version, at the most recent AC meeting and in our comments today.

Amending Section (c)(5)(A):

Under (c)(5)(A), control measures should be listed under this section so as to read:

(A) The procedures or housekeeping tasks being performed at the time of the injury and whether any identified control measures were available and in use; **control measures to be considered here and in (c)(5)(B) and (c)(5)(C) include, but are not limited to: fitted bed sheets; mops; long-handled and adjustable length tools for dusting and scrubbing walls, showers, tubs, and other surfaces; and light-weight or motorized carts and those identified in the Cal/OSHA2005 publication, *Working Safer and Easier for Janitors, Housekeepers and Custodians*.**²

1. It is imperative that managers, supervisors and housekeepers know what control measures are commonly used for housekeeping tasks and are recommended in the appendices. CalOSHA must not be silent about what these measures are; all parties involved must know at minimum what measures are to be amongst those considered and supported by the non-mandatory appendices.

Amending Section (c) (5) (B):

Under subsection, (c)(5)(B), the word “appropriately” should be changed to “**correctly**” in **both instances**. ‘Appropriately’ seems subjective and not directly pertinent to the intended meaning of ‘correct’ use of tools.

Section (c) (5) (C)

Thank you for considering our suggestion to change “opinion” in subsection (c)(5)(C), to the word “input.”

Amending Sections (c)(6)(B) and (C):

Under subsections, **(c)(6)(B) and (C)** the word “appropriate” should be changed to “**correct**” in **all three instances**. ‘Appropriate’ seems subjective and not directly pertinent to the intended meaning of selection of and use of ‘correct’ tools and equipment.

Page 4.

Amending Section (d)Training (1)(E):

“Employers shall provide additional training when new equipment or work practices are introduced **“or whenever the employer becomes aware of a new or previously unrecognized housekeeping hazard.”**

This language repeats the language in (c) (4) (D) (2) on page 2, and therefore makes the standard more consistent and comprehensive. It also replicates language in other CalOSHA standards, see two examples below:

Page 11: (B) “Additional training shall be provided when new equipment or work practices are introduced <u>or when a new or previously unrecognized workplace violence hazard has been identified.</u> ”	Page 3: (3) “ <u>Whenever the employer is made aware of a new or previously unrecognized patient handling hazard;</u>
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² *Working Safer and Easier for Janitors, Housekeepers and Custodians*,
https://www.dir.ca.gov/dosh/dosh_publications/janitors.pdf (date last accessed 12/2/2015).

Page 4, continued

Amending Section (d) Training (2)(A):

Training “supervisors and employees about the signs, symptoms and risk factors for musculoskeletal injuries” (MSI) is an integral component of a MSI prevention standard. We thank CalOSHA for considering our suggestion and adding this language. **Therefore, we request that 1) this clause remains in the final version and 2) that the language of this clause from the December 3rd, 2015 revised discussion draft remains intact.**

We are alarmed by the California Hotel and Lodging Association’s (CHLA) Dec. 3rd comments on requesting removal of this clause and by the comments of the Chamber of Commerce expressing concerns regarding costs of implementing this clause. How can you prevent musculoskeletal injuries if you do not educate supervisors and workers about what the signs, symptoms and risk factors for those injuries are?

Section (d)(2)(B): Training shall include at least the following elements as applicable to the housekeeper’s assignment:

B) The elements of the employer’s MIPP and how the written MIPP will be made available to housekeepers, **and all appendices** will be made available to housekeepers.

1. Housekeepers should be made aware of the appendices as part of the training on the MIPP. Although non-mandatory, the appendices are a key component of the MIPP and provide some of the best training materials to date on preventing/reducing musculoskeletal injuries from occurring to hotel housekeepers.

Pages 4 and 5.

Section (d)(2)(E):

On the same note, WE requests that the added language “and process for, early reporting of symptoms and injuries to the employer” 1) **remains in the final version and 2) that the language of this clause from the December 3rd, 2015 revised discussion draft remains intact.** We thank CalOSHA for considering our suggestion and adding this language.

Page 5.

Amending Section (d)(2)(F):

Change “Practice using the types and models of equipment that the housekeeper will be expected to use;”

to:

“Practice **in the guest room performing housekeeping tasks** using the types and models of equipment, **tools and safe work practices** that the housekeeper will be expected to use **or follow;**”

1. Tools and safe work practices must be included in the training, not just equipment, in order to reduce/prevent musculoskeletal injuries. This additional language is consistent with the language in (d)(2)(D).

2. The location of where the training takes place for an occupation that spends their entire workday in hotel guest rooms is a key component to effective training. Housekeepers must receive hands-on training performing the task in the guest room; this training method will be carried out in the actual conditions hotel housekeepers face daily that may result in workplace musculoskeletal injuries. This makes it a far more effective training exercise than what housekeepers often describe as being trained as part of a short talk at the morning meeting which is not held in the guest room.

Housekeepers gave testimony at the December 3, 2015 AC meeting of being given tools to clean the guest room by their employer without practice in the guest room; when they tried to use these tools to clean the guest room, the tools were incorrect for the task, e.g. short-handled tools to clean floor to ceiling glass shower walls.

Amending Training Section (d)(2)(G):

“An opportunity for interactive questions and answers with a person knowledgeable about hotel housekeeping equipment and procedures; **tools and safe work practices that the housekeeper is expected to follow.**”

The trainer must be knowledgeable about the tools and safe work practices that the housekeeper is expected to follow, not only about equipment and procedures. Tools and safe work practices for housekeeping tasks are a key component for reducing/preventing musculoskeletal injuries along with equipment and procedures. This additional language is consistent with the language in (d)(2)(D) and if amended, amended (d)(2)(F).

Amending Training Section (d)(2)(H):

Replace the word ‘problems’ with ‘**procedures or safe work practices.**’ The language preceding ‘problems’ pertains to procedures and to housekeepers’ work practices. We think the amended language is more precise and should be used regarding any corrections that need to be communicated to housekeepers. The amended text should read: “**and how to effectively communicate with housekeepers regarding any procedures or safe work practices needing correction.**”

Amending (e) Records (1):

(1) Records of the steps taken to implement and maintain the MIPP, including any measurements taken or evaluations conducted in the worksite evaluation process; **names and qualifications of persons conducting the training and copies of training materials and lists of trainees; and copies of the appendices**, shall be created, maintained, and made available in accordance with Section 3203(b). It is important to include the names and qualifications of persons conducting the training. This language replicates language in other CalOSHA standards, with two examples below. Training records including materials and lists of trainees is important to be made available for review along with the appendices in accordance with Section 3203(b).

Workplace Violence Prevention Plan, Page 13: (h)(2) “names and qualifications of persons conducting the training” in recordkeeping section.	Safe Patient Handling Plan, Page 7: (c)(2) “names and qualifications of persons conducting the training” in recordkeeping section.
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Amending (e) Records (2):

A copy of the MIPP, **all appendices** and all records required by Subsection (1) shall be available **at all times** at the worksite for review or copying by housekeepers **and other affected employees** and their **designated** representative in accordance with Section 3204(e)(1).

1. Although non-mandatory, the appendices are a key component of the MIPP and therefore, just like the MIPP, housekeepers must have access to the appendices.

2. The appendices must be available at all times which is the same language found in other CalOSHA standards, see two examples below:

Page 4: (c) Workplace Violence Prevention plan: “shall be made available to employees at all times”	Page 2: Safe Patient Handling plan: “shall be made available to all employees in each patient care unit at all times”
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Regarding ‘**designated representatives**’ see our comments on page 2. We concur with the Agency’s use of designated representative here in accordance with Section 3204(e)(1).

Amending Appendix A (Non-Mandatory)

“Reference Materials for the Worksite Evaluation **and Training Requirements**”

“The following are examples of materials that can be used in performing a worksite evaluation **and training** for housekeeping:”

1. The appendices are excellent materials not only for the worksite evaluation but also for complying with the training requirements for the benefits of managers, supervisors and housekeepers. We strongly encourage that the appendices be recommended for the training requirements as well as the worksite evaluation. Therefore, amending per the above language is needed in both places.

UNITE HERE Testimony 12/3/15
The Health of the Hotel Industry – Its Financials
Mikela French, J.D.

The hotel industry is doing great. The key numbers used to judge the health of the industry have been on the rise, and this incline has been one of the longest upswings in recent memory. This year, the industry will set some records:

- average rental income per occupied room will reach the highest level ever in 55 of 59 markets;³ and
- a profit increase of 13.2%, which will equate to an all-time high revenue per available room.⁴

Asset prices are sky high. Hotel property prices continue to surpass peaks in many markets. To give you some recent examples, last month the Fairmont San Francisco sold for \$450M – which translates to \$760,000 per room. Reporting the transaction, The *San Francisco Business Journal* had this to say:

It's not the priciest hotel transaction of late, but it would follow a pattern of record hotel transactions. The former Mandarin Oriental San Francisco recently sold . . . for a reported \$1 million per room, and . . . Larry Ellison recently dropped \$71.6 million, or \$832,500 per room, on Palo Alto's Epiphany Hotel.⁵

California is home to 4 of the TOP 25 lodging markets tracked by Smith Travel Research. San Francisco, Los Angeles, Anaheim, and San Diego are some of the most profitable hotel markets in the country. Hotels across the board in California are doing well. According to Smith Travel Research, last month California hotels achieved:

- An increase in occupancy compared to last year;
- An increase of Average Daily Room Rental Rate compared to last year; and
- An increase in revenue per available room compared to last year.⁶

In addition to high asset values and increases in occupancy and revenue, hotel companies are very busy buying each other at the moment – a sign of confidence in the health of the industry.

³ <http://www.hunterconference.com/wp-content/uploads/2015/03/PKF%20PowerPoint.pdf>

⁴ <http://www.hunterconference.com/wp-content/uploads/2015/03/PKF%20PowerPoint.pdf>

⁵ <http://www.bizjournals.com/sanfrancisco/blog/2015/11/fairmont-san-francisco-mirae-global-investments.html>

⁶ STR Monthly Report's US Hotel Industry Performance for the Month of October 2015, created 11/17/2015

Blackstone, which owns a significant part of Hilton, is in the process of acquiring high-end hotel owner Strategic Hotels & Resorts for \$4 Billion.⁷ Marriott is buying Starwood -- \$12.2 Billion deal.⁸

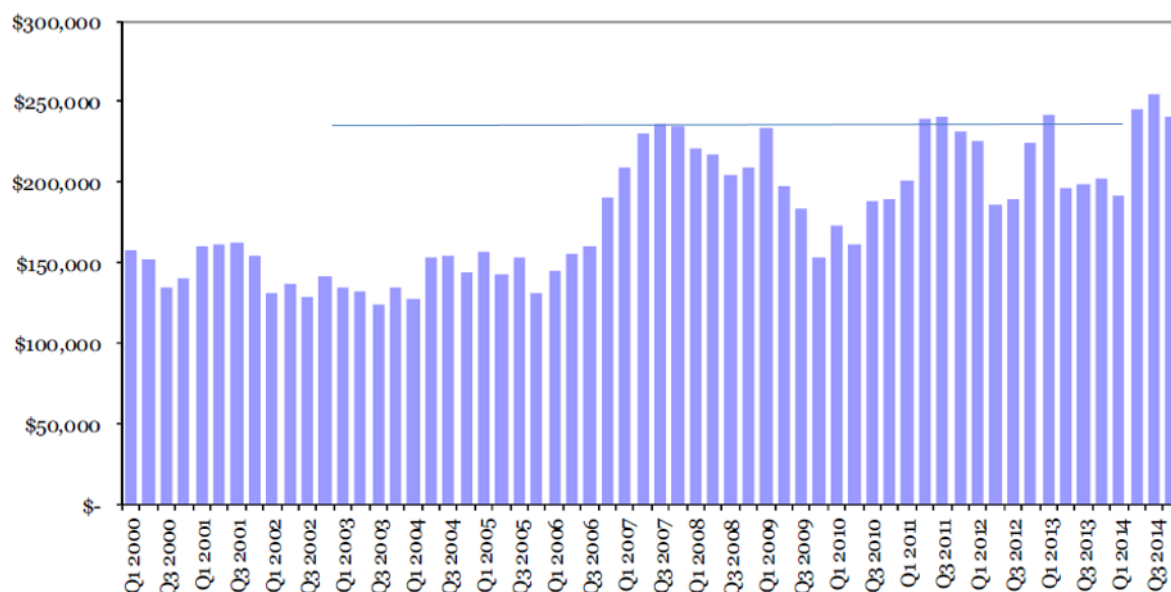
Given the strong, positive economic health of the hotel industry and its legal requirements under Cal OSHA to provide a safe workplace free from known and recognized hazards, then we would expect that the hotel industry can afford to meet its legal obligations for safe housekeeping jobs as an employer.

The data certainly supports the industry's economic strength.

Asset prices pass historic peak; still climbing

Exhibit 9. Asset Prices Continue Surpassing Peaks In Many Markets

Hotel Transactions Price/Key T4Q 2000-2014



⁷ <http://www.bloomberg.com/news/articles/2015-09-08/blackstone-offers-to-buy-strategic-hotels-in-6-billion-deal>

⁸ <http://www.wsj.com/articles/marriott-to-acquire-starwood-hotels-resorts-1447673866>

In 2015, the Hotel Industry will achieve:

- An occupancy level of **65.6%**, the **highest level** ever recorded by STR
- **Highest ever** occupancy levels in 20 of the 59 markets covered by PKF
- **Highest ever** Average Daily Rates in 55 of 59 markets
- Occupancy levels **above the long-run average** in 54 of 59 markets
- A profit increase of 13.2%, which will be an **all-time high Dollar Per Available Room.**

Notable sales:
+ Fairmont SF

2015 YTD

Notable Sales:



Montage Laguna Beach



SLS Beverly Hills



Malibu Beach Inn



Grand Del Mar



Ace Hotel
Downtown Los Angeles

2015 Rev-PAR Trend

- o California average RevPAR 2015 YTD 1st Quarter up 12.6%, vs. U.S. average up 7.9%
- o Santa Monica/Marina Del Rey have the highest average Rev-PAR at \$225.45, up 6.7%
- o 2014 California Average RevPAR at \$101.98

2015 1st Quarter Top 5 California Rev-PAR Increases

1.	Santa Cruz	34.2%
2.	San Jose	24.4%
3.	California Rural North	18.5%
4.	Napa Valley	17.6%
5.	Stockton	16.5%

¹STR (Smith Travel Research)

²PKF Consulting is a hotel industry research company

³Rev-Par – Revenue per Available Room